

Exhibit 17

Filed Under Seal

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

)
ORACLE AMERICA, INC.,)
)
Plaintiff,)
)
vs.) No. CV 10-03561 WHA
)
GOOGLE INC.,)
)
Defendant.)
_____)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF URS HÖLZLE
Palo Alto, California
Tuesday, November 24, 2015
Volume I

Reported by:
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CSR No. 8239
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1 idea how they do it.

2 BY MS. HURST:

3 Q All right. You said earlier that you've
4 had no formal role with respect to Android. Have
5 you had an informal role?

6 A I have an informal role, you know, with
7 many things because you -- you know, if you're part
8 of Google, then discussions, sort of things like
9 that, come up, like, let's say, hiring or hiring
10 standards or cultural things or -- you know, I deal
11 with our international offices, for example. So,
12 yes, I certainly had discussions with Android as
13 well.

14 Q Did you have discussions with Andy Rubin
15 soon after Google acquired Android?

16 A I -- I wouldn't say soon because it was
17 very skunkworksey, like, I know about -- I knew
18 about the acquisition because it was discussed
19 somewhere. I knew that they were looking at phones,
20 but I think for the first year or two I didn't see
21 what they were doing, and I doubt that few people at
22 Google did because they were kind of running very
23 skunkworks.

24 Q And skunkworks means they were keeping it
25 a secret and as small as possible?

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1 MS. ANDERSON: Objection. Form.

2 THE WITNESS: In the -- it was an informal
3 term. Yes, basically meaning -- Google, generally
4 speaking, internally is very open. So anyone can
5 see what's going on in other teams because the team
6 home page is public and you can look at the source
7 code or, you know, whatever, and Android wasn't like
8 that. So I would say most people didn't know that
9 -- may not even -- they may have even missed that
10 they were acquired, and it certainly wasn't
11 something that was talked about much.

12 BY MS. HURST:

13 Q All right. Did anyone from the Android
14 skunkworks, to use your term, ever consult with you
15 about compiler design for Android?

16 MS. ANDERSON: Objection. Form.

17 THE WITNESS: Yeah, not in that -- so I
18 remember having discussions with someone -- it might
19 have been Andy. It might have been someone else --
20 about people to hire for -- who are good in language
21 implementation because -- because the Java
22 implementation on -- on -- or the -- generally that
23 Android runtime system was in its infancy at the
24 time, and they were looking for referrals,
25 basically.

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1 BY MS. HURST:

2 Q And they were considering a Java
3 implementation?

4 MS. ANDERSON: Objection. Form.

5 THE WITNESS: I think, but, you know,
6 again, this was -- I would say that in the first two
7 or three years of Android at Google I probably
8 spent, you know, a single-digit number of hours tops
9 interacting with the -- with the Android team on a
10 -- pretty much anything. So what I do remember is
11 referring some people and saying, well, if you want
12 to hire people who understand implementation,
13 runtime systems, here's some names.

14 BY MS. HURST:

15 Q And Mr. Bak was one of the people that you
16 recommended?

17 A Lars was one of the people I recommended,
18 yes.

19 Q And was he ultimately hired?

20 A He was not hired for Android, no. He was
21 later hired for -- for Chrome.

22 Q Did you have any understanding at the time
23 as to why Mr. Bak was not hired for Android?

24 MS. ANDERSON: Objection. Form.

25 THE WITNESS: I -- you know, you have to

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1 ask him to be sure, but I believe a significant
2 reason was location. He's in Denmark, and the job
3 was offered in Mountain View, and he wasn't willing
4 to relocate.

5 BY MS. HURST:

6 Q At the time you recommended Mr. Bak, did
7 you have an understanding of what he was working on?

8 MS. ANDERSON: Objection. Form.

9 THE WITNESS: Yeah, Lars was working on a
10 -- he had a -- some kind of start-up that did -- I
11 believe it was embedded Smalltalk or Smalltalk-ish
12 systems for consumer electronics.

13 BY MS. HURST:

14 Q Were you ever familiar with a company
15 called Esmertec?

16 A By name I know who they were. They were a
17 Swiss company, and they were in the phone -- phone
18 software business, sort of in the Nokia age, and so
19 I know that.

20 Q Do you know anything else about them?

21 A I believe they bought Lars's company.

22 Q And Lars's company you're referring to is
23 Skelmir?

24 A I don't know what the name was, but he had
25 a very small company in Denmark, five people or

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1 Q Is it fair to say that your opinion that
2 you expressed to Mr. Rubin was that he conduct due
3 diligence and that he use untainted engineers to do
4 so?

5 A I would say that my attempt here in
6 re-creating my train of thought was that for some
7 reason he was concerned about tainted and, basically
8 said, oh, we're going to skip the eval. Like, we're
9 not going to have experts. And I said, gee, that is
10 not a good idea. If you are worried about that,
11 there are people who clearly aren't tainted, right,
12 where tainted means have worked at Sun, and I don't
13 say, because I don't want to be seen as telling him
14 what to do, that he should use that. I'm saying
15 there is definitely the option of having people who
16 are experts and who have not worked at Sun.

17 Q Just what -- after the sentence where you
18 identify Jeff and Sanjay, just -- just read the next
19 sentence for us, Mr. Hölzle.

20 A Yes. "But perhaps I misread your email
21 and you are not as desperate as it sounds."

22 Q Okay. So your perception at the time you
23 wrote your email on July 23rd, 2006, was that
24 Mr. Rubin was desperate; true?

25 A He was rushing, and I used the words

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1 "desperate" to say, gee, you're not in a -- you
2 know, you're not planning to delay things a lot for
3 a deep inspection, like -- which I recommended.

4 Q You used the word "desperate."

5 A I totally used the word "desperate," yes.

6 Q All right. And then Mr. Rubin responded
7 to you: "We haven't done the due diligence yet";
8 right?

9 A Correct.

10 Q And he describes the steps and the
11 transaction, explaining why due diligence would come
12 later; right?

13 A Uh-huh, yes.

14 Q Yeah. And then he gives a little more
15 background; do you see that?

16 A Uh-huh.

17 Q He says: "We have an in-house VM." You
18 understand that to mean virtual machine; right?

19 A Yes.

20 Q "We're looking to acquire MID P2.0"; do
21 you see that?

22 A Uh-huh.

23 Q I'm sorry. Can you say "Yes" for the --

24 A Yes.

25 Q Thank you.

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1 Now MID P2.0 that was a -- that's a Java
2 reference -- right? -- Java Platform reference?

3 A I actually have no idea what it refers to.

4 Q All right. He wrote: "We're looking to
5 acquire MID P2.0, hire the expertise to develop MID
6 P3.0 is --" and that appears to be a typo. It
7 should be "in short order"; right?

8 A Yes, that's --

9 Q "And --"

10 A -- how I read it, too.

11 Q "-- the Java class libraries and the
12 porting layer that runs on the common mobile
13 platforms"; do you see that?

14 A I see.

15 Q All right. And what do you -- he wrote
16 that they looking to acquire -- well, as you sit
17 here today, do you understand that he was looking to
18 acquire or develop the Java class libraries and the
19 porting layer --

20 MS. ANDERSON: Objection. Form.

21 BY MS. HURST:

22 Q -- or both?

23 MS. ANDERSON: Objection. Form.

24 THE WITNESS: Possibly. I mean, it's
25 clear that he wants to accelerate his efforts

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1 towards having a complete Android system, and by
2 buying his team, which does have some code, which he
3 believes would make it possible for him to meet his
4 six-month launch date, it doesn't really -- the
5 email seems to suggest that he hasn't -- doesn't
6 have the Java class libraries yet.

7 BY MS. HURST:

8 Q He doesn't have them yet and he's got to
9 get them somehow?

10 MS. ANDERSON: Objection. Form.

11 THE WITNESS: That's how I interpret the
12 email.

13 BY MS. HURST:

14 Q Now, he says at the end of his email: "I
15 will explain who is doing the diligence in
16 person" --

17 A Uh-huh.

18 Q -- right?

19 A Yes.

20 Q Is there a Urs Hölzle user -- personal
21 user manual at Google?

22 A There is.

23 Q And how long is that document?

24 A Three pages maybe.

25 Q And is one of the things that document was

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1 acquisition. The acquisition was really motivated
2 by both Larry and Sergey's insight that basically at
3 the time of the acquisition mobile phones were not
4 programmable.

5 I'm quoted somewhere in the press because
6 I remember giving that email -- that interview maybe
7 a year before that mobile phones are not
8 programmable, like the Nokia phones, because at the
9 time we had a very simple Google search app that
10 basically gave you a screen and led you to a query
11 and get back results, and we literally had 147
12 versions of this because every single phone back
13 then, mostly Nokia, had a different way of doing
14 things, and so even though everything was Java, it
15 was literally -- even the same phone had
16 different -- you know, different APIs depending on
17 the -- on the carrier that carried the phone. And
18 so we had no common platform, and it was impossible
19 to really build any applications on it.

20 And so Larry and Sergey recognized early
21 on that if someone writes a phone that actually can
22 be a platform for real software development, then
23 it's important for that platform to be open because
24 if -- if it was not, then access to search would
25 possibly be blocked by the owner of the platform,

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1 and we had lived through that on a desktop with
2 Microsoft, who was not favorably disposed to make it
3 to easy to use Google from the Microsoft browser.

4 And so they saw that, well, at some point
5 someone is going to do an operating system for
6 mobile phones that actually is usable that actually
7 is a platform that you can write real applications
8 for, and that platform would be open, right, because
9 if it's closed -- if it's Microsoft, again, for
10 example, then we're going to be toast. You know,
11 it's not good if the platform is controlled by
12 someone else. And that was three years or so before
13 smartphones actually happened.

14 So at the time it was, you know, pretty
15 forward-looking because it wasn't actually possible
16 to do it at the time. The hardware just wasn't fast
17 enough. But, you know, two years later the iPhone
18 came out, and a year or so after that Android came
19 out. And so that's how it happened. Java was --
20 I'm sure was not mentioned in the discussion at all
21 just because it wasn't about Java. It was about a
22 mobile operating system and a user experience that
23 allows more ambitious applications to exist.

BY MS. HURST:

Q All right. You said that it was Larry and

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1 Sergey's -- it was important to them to have -- not
2 to have someone else control the platform.

3 A To have an open platform and not have a
4 Microsoft -- I mean, at the time probably Microsoft
5 was on everyone's mind because they had ambitions to
6 go -- being mobile. They controlled 90 percent of
7 desktop OSes, and they were definitely not friendly
8 to us.

9 Q How was this communicated to you, this
10 desire that Mr. Brin and Mr. Page had not to let
11 somebody else control the next generation mobile
12 operating system, the programmable one?

13 A I'm sure there were discussions around the
14 area, especially after the Android acquisition, and
15 I'm sure they would have talked about it as part of
16 saying, hey, we want to go and acquire Android and
17 here's why.

18 I think it became even clearer to most
19 people at Google once the iPhone was out because it
20 kind of showed that, actually, if you have a program
21 -- a platform that's kind of more like a PC rather
22 than a very narrow kind of Nokia-Symbian-type
23 platform, then really you can do amazing programs
24 that people would really want.

Q The iPhone was a closed platform?

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A The iPhone was a closed platform, yes.

Q And you --

A Still is.

Q -- [REDACTED]
on that platform; right?

MS. ANDERSON: Objection. Form.

THE WITNESS: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

BY MS. HURST:

Q [REDACTED]
your search capability, search service, onto the
[REDACTED]

MS. ANDERSON: Objection. Form.

THE WITNESS: Again, I'm not knowledgeable
about that. We do pay them. I know that.

BY MS. HURST:

Q Pardon me. Okay. I didn't understand
that.A Were we forced to do that or was it
voluntary? I don't know.

Q I didn't mean to make that distinction --

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